

Maryland Commission on Capital Punishment

Written Testimony submitted by Kirk Noble Bloodsworth

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head had been crushed by a rock. Her throat was stepped on so forcefully that the perpetrator left the imprint of his shoe on her neck. She had been sodomized, raped, and sexually assaulted with a stick. The word horror can not even describe what this little girl must have gone through.

Because of the notoriety of this horrific crime, the police were eager to find Dawn's killer and ease the public's anxiety and fear. The main witnesses were the two little boys fishing at the pond. They were asked to work with a composite artist and together they came up with a composite. The man last seen with Dawn was described as a white male, between six feet and six feet, five inches tall, with a slim to medium build, dirty blond to light brown curly hair, and tan skin. Neither boy mentioned red hair, side burns, or any missing teeth—all of which I had at that time.

For some reason, some people seemed to think that the composite looked similar to me. As a result, I was tip number 286 out of 500 on a police tip line and the Cambridge Police Department brought me in for questioning in regards to the Dawn Hamilton murder investigation.

I went to the station voluntarily, knowing that I was innocent of this crime and feeling that I had nothing to lose and everything to gain by cooperating. When I entered the police interview room, a pair of girl's panties and a rock were lying on the table. I was never told why they were on the table and they were quickly removed. I would later find out that the items were part of an experiment the police devised because they believed that the killer would have a strong reaction when confronted with the items related to the crime. I had no reaction to the items, but after I left the station, I talked to my friends about what the police had done. I later discovered that the

police used these statements I made to friends as validation that I knew something that only the killer would know about the murder.

At three o'clock in the morning on August 9, 1984—fifteen days after Dawn's murder—I was arrested for the rape and murder of Dawn Hamilton. I awoke to pounding on my front door and before I knew it I was being handcuffed, read my Miranda rights, and taken away from my home. That would be the last time I saw Dorchester County, and my small town of Cambridge for eight years, eleven months, and nineteen days.

My conviction was based mainly on the eyewitness identifications of five people—the two boys who worked on the composite and three adults who claimed to have seen me with Dawn on the day of her murder. As later proven through DNA testing, all five of them were wrong in their eyewitness identification of me as the perpetrator. These eyewitness identifications further stigmatized me as a child rapist and killer, but I was innocent. The fact is I became the most hated man in Maryland.

There wasn't a day that passed that I didn't try to tell someone I was innocent of this crime. In 1986, I thought someone was finally listening to me when my conviction was overturned due to a Brady violation made by the State. Potentially exculpatory evidence about another suspect in the case was withheld from my defense team and I was granted a new trial by the Maryland Court of Appeals. Although the outcome of the second trial was not a death sentence, it might as well have been. I received double life for a crime I did not commit. As an innocent man, I was sentenced to die in one of the worst prisons in the United States, the Maryland Penitentiary.

Prison life can only be described as Hell on Earth. On death row, I was in a constant state of anxiety over when I would eventually take that long walk to the gas chamber. I still have nightmares about it to this day. I can still hear the slam of my cell door on the infamous south wing like the slam of the tail gate of a dump truck. When I close my eyes, I can still see the steel and slate cell where I spent many hours thinking I would lose my mind.

One night, the power suddenly went off and the tier was pitch black. You could hardly see your own hand in front of your face. I could hear people screaming, see other inmates lighting fires. The noise became so deafening, I felt like the building could collapse underneath the weight of all the screaming. In the darkness, I started to hear a cascade of something around my cell door and then objects began to hit me on the chest and in the face. Just as suddenly as the power went off, it came back on and the cascade I heard and the objects that I felt turned falling on me turned out to be thousands of cockroaches descending from the ceiling like a wave running to the cracks. This was my life.

I was denied justice, but most importantly Dawn Hamilton and her family were being denied justice every day I was incarcerated and the real killer was free to hurt more people. This thought is what drove me to continue to fight to prove my innocence. Although I had my share of depression and doubt, I stayed strong through the support of my family. They never doubted my innocence. Some of my family are here today and I would again like to thank each and every one of them for their continued support through the years.

The key to my freedom came in the form of a book, *The Blooding*, that described a technique known as genetic fingerprinting and the first time a process called DNA testing was used in a criminal case in England to solve a series of homicides. I had an epiphany – “if it can convict you, it can free you.”

At the time of my first trial, DNA testing was not very advanced. When I came across this book in 1992, DNA testing was breaking new ground. My attorney, Bob Morin, requested that the evidence from my case be released for testing and the Baltimore County prosecutors agreed. A letter from prosecutor Ann Brobst brought those plans to a halt. The letter stated that the biological material from my case was inadvertently destroyed.

Fortunately that turned out to be wrong. The judge from my second trial, Judge James T. Smith, decided to keep some of the physical evidence and stored it in his chambers rather than hand it over to the evidence room where it should have been located. I can not say for sure why he decided to keep the evidence in his chambers, but his decision reminds me of something Judge Smith said about the evidence that led to my being granted that new trial. Addressing the courtroom he said, “This is not gamesmanship we play here; it is about the truth.” I can only believe that in his decision he knew that there was more truth to be told and thus decided the physical evidence would be better off stored in his chambers.

I am grateful for Judge Smith’s decision because it meant that all the evidence could be tested for DNA. With the state’s agreement samples were sent out to be tested. But while my family and I waited for the results, the worst thing happened.

On January 20, 1993, three months before the results came back, my mother died of a heart attack. I was escorted to the funeral home to view her body while still handcuffed and shackled. I was given five minutes with my mother. She was the one who had taught me that if I don't stand up for something I would fall for anything. So I stood up. I stood up for Dawn Hamilton and her family. When the DNA results were revealed, I made it my mission to seek justice for Dawn by finding her killer.

On June 28, 1993, after almost nine years in prison including two on death row, I walked out of the Maryland prison system a free man. But I still suffered. DNA testing was still relatively new and some people did not understand what a powerful scientific tool it was. Of course, it didn't help that the prosecutor's office would not admit the role they played in my wrongful conviction. While I was described as "not guilty" by the prosecutor's office, the office maintained it was not prepared to call me innocent either. I was frustrated because I was looking for guidance on how to find Dawn Hamilton's killer while it seemed the prosecutor's office was only interested in looking for new ways to tie me to this crime.

It would take ten years from the time of my release for Dawn's killer to finally be identified. And it was five years ago this day on September 5, 2003 that I was sitting in a Burger King across from Ann Brobst, the prosecutor from my case, and two homicide detectives in my home town of Cambridge. Mrs. Brobst had come to tell me that a DNA match had been made in the DNA database from the evidence that had led to my release. The DNA matched that of Kimberly

Shay Ruffner, a man that had been mentioned during the Dawn Hamilton investigation. The tip was never followed up on.

Ruffner was not between six feet and six feet, five inches tall like the original description stated. He was five feet, seven inches tall. He weighed 160 pounds. At the time, he already had a criminal history. Ruffner was wanted for a number of rapes in the Fells Point area. I was an honorably discharged United States Marine with no criminal history. As fate would have it, Ruffner and I lived in the same prison tier for five years. He was in prison for the attempted rape of a Fells Point woman. He never said a word to me.

I am very lucky to be here today. And make no mistake about it—I am not here because the system worked—I am here because like in all exonerations a series of miracles happened that lead to my exoneration. Since my exoneration, I have dedicated my life to two things.

First, I was on a mission to bring justice to Dawn Hamilton and her family by finding her real killer. On May 20, 2004, Kimberly Shay Ruffner pled guilty to the premeditated first-degree murder of Dawn and was sentenced to life in prison. Second, I want to do all that I can to make sure that what happened to me never happens to another individual in the state of Maryland or anywhere else in this country.

My story is not unique. Nor is the state of Maryland the only state that has convicted innocent people and sentenced them to die. No, my story has been played out another 128 times across this country and twenty-five other states have made the same mistake as Maryland in convicting

and sentencing an innocent person to death. But in the end, it is only a story unless someone does something about the systemic flaws that lead to wrongful convictions.

As a Commission, you are charged with making recommendations to the Governor regarding “the application and administration of capital punishment in the state...” I am here to tell you, as a citizen of this state who was wrongfully convicted not once, but twice, for a crime I did not commit, I submit to you that you must do more—you must make recommendations to improve the fairness and accuracy of our criminal justice system as a whole to ensure that what happened to me never happens again in this state.

This Commission has heard testimony from many that the death penalty should be repealed. Whatever the Commission decides in that regard it is, in my humble opinion, imperative that as part of its recommendation the Commission also suggests ways to improve Maryland’s criminal justice system.

Mr. Chairman, almost everything and anything that could go wrong in a criminal trial went wrong in mine. From faulty eyewitness identification procedures, to the mishandling of the way the composite sketches were done, to tunnel vision by the police and prosecutors and to bad lawyering on both sides of the aisle—an incompetent defense attorney and prosecutorial misconduct. All of these mistakes led to my wrongful conviction and are leading causes of wrongful convictions across the country.

There are simple solutions to causes of wrongful convictions and the systemic flaws in Maryland's criminal justice system and as I mentioned above I call on this Commission to address those flaws and make the necessary recommendations.

First and foremost, we must recommend improvements to Maryland's post-conviction DNA statute. Although the state does grant access to post-conviction DNA testing for those in prison, there are significant limitations that make it extremely difficult for petitioners to obtain testing.

Biological evidence must be preserved so that these tests can be conducted. While Maryland requires preservation of evidence for the most serious criminal cases, the current statute allows for the disposal of evidence in other instances. The statute also does not mandate that biological evidence follow a chain of custody or be maintained in a way that ensures the preservation or integrity of the evidence in instances where it is kept.

This is unacceptable. Without proper handling, evidence is prone to loss or destruction.

Advocates for petitioners should not have to go on a treasure hunt for evidence in order to submit it for post-conviction DNA testing. I am fortunate that my attorney cared enough about me and believed in my innocence to pursue that task.

It is important that Maryland provide counsel for indigent petitioners seeking DNA testing and provide funds to cover the costs, two things the current statute does not cover. Again, I am very lucky to have had a lawyer who believed wholeheartedly in my innocence, agreed to work on my case pro bono, and covered the costs of the DNA testing personally. Maryland must enable all

petitioners seeking DNA testing to have the assistance of counsel and the state should pay for testing for those who can not afford it.

Justice Thurgood Marshall once said, "The measure of a country's greatness is its ability to retain compassion in time of crisis."

I believe every wrongful conviction is a crisis, and in order to stem the crisis we must make every effort here in Maryland to increase the fairness and accuracy of our criminal justice system.

The time is now. We can not wait until another Kirk Bloodsworth comes around because next time Maryland may be too late. I urge this commission to recommend measures to reduce wrongful convictions so we can do everything possible to ensure another case like mine does not happen in the state.

Thank you, Mr. Chairman, ladies and gentlemen of the commission for your attention. At this time I'd be pleased to answer any questions.